

### **REMARKS**

Applicant has carefully reviewed and considered the Office Action mailed on January 30, 2004, and the references cited therewith. Claims 29-38, 42, 43 and 45 are canceled, and claims 46-61 are added such that claims 46-61 are now pending in this application.

#### **§102 Rejection of the Claims**

Claims 29-38, 42, 43 and 45 were rejected under 35 USC § 102(a) and/or 35 USC § 102(e) as being anticipated by Bishop et al. (EP 1093162 A1). Applicant has canceled claims 29-38, 42, 43 and 45 such this rejection is now moot.

#### **New Claims 46-61**

Applicant respectfully submits that new claims 46-61 are adequately supported by the specification and drawings. Applicant can not find in any of the cited references (among other items):

- i. “etching a conductive layer on the substrate to form a first ring layer and a first pad such that the MEMS device and the first pad are within the first ring layer” as recited in claim 46;
- ii. “etching a conductive layer on the integrated circuit to form a second ring layer and a second pad such that the second pad is within the second ring layer” as recited in claim 47;
- iii. “etching a conductive layer on an integrated circuit to form a first ring layer and a first pad” as recited in claim 52;
- iv. “etching a conductive layer on the substrate to form a second ring layer and a second pad such that the MEMS device and the second pad are within the second ring layer” as recited in claim 53; and
- v. “etching a first conductive layer on the substrate to form a first ring layer and a first pad such that the MEMS device and the first pad are within the first ring layer” in combination with “etching a second conductive layer on the integrated circuit to form a second ring layer and a second pad such that the second pad is within the second ring layer” as recited in claim 58.

Allowance of claims 46-61 is respectfully requested.

*Reservation of Right to file Continuation Application*

Applicant respectfully traverses the pending 35 USC § 102 rejection. Applicant reserves the right to file a continuation application relating to any of the original and/or canceled claims at a later date. Applicant also respectfully reserves the right to traverse any statements in the Office Action relating to the rejections (e.g., under MPEP 2144.04 among other things). Applicant is expressly not admitting to any assertions made in the Office Action.

*Reservation of Right to Swear Behind References*

Applicant reserves the right to swear behind any references which are cited in a rejection under 35 U.S.C. §§102(a), 102(e), 103/102(a), and 103/102(e). Statements distinguishing the claimed subject matter over the cited references are not to be interpreted as admissions that the references are prior art.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPENDITED PROCEDURE

Serial Number: 10/005667

Filing Date: November 2, 2001

Title: METHOD OF FABRICATING AN INTEGRATED CIRCUIT HAVING A MEMS DEVICE

Assignee: Intel Corporation

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Dkt: 884.591US1 (INTEL)

Conclusion

Applicant respectfully submits that the pending claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Andrew Peret at (262) 646-7009, or the below signed attorney to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

QING MA

By his Representatives,

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Date March 29, 2004

By Ann M. McCrackin  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Non-Fee Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30 day of March 2004.

Anne M. Richards

Name

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Signature